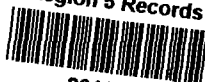


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264191

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FIRM NAME: United States Environmental Protection Agency

FILE NO: 7668125-016

PHONE NUMBER: 312-886-0562 FAX NUMBER: 312-886-0747

SENDER: Carol M. Douglas, Esq. DIRECT LINE: 312 977-4368

DATE: 12/4/02 TIME: 4:30pm PAGES: 3  
Chicago

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**VIA FACSIMILE**

December 4, 2002

Thomas J. Krueger, Esq.  
Associate Regional Counsel  
United States Environmental Protection Agency  
77 West Jackson Boulevard (C-14J)  
Chicago, IL 60604-3590

**RE: Request for Data Related to Ellsworth Industrial Park**

Dear Mr. Krueger:

On behalf of Tricon Industries, Inc. (Tricon), I request that the US Environmental Protection Agency (USEPA) and/or the Illinois Environmental Protection Agency (IEPA) provide Tricon with site-specific data regarding the testing of all wells located in and around Ellsworth Industrial Park. As previously discussed during meetings among the group of companies receiving the Special Notice Letter dated October 11, 2002 (the Group) and USEPA/IEPA, this site-specific well data is critical to the Group, especially because the data was relied on by USEPA in issuing the Special Notice Letter and in demanding that the Group take certain actions pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

As a recipient of the Special Notice Letter, Tricon is asked, among other things, to present a good faith offer to USEPA by December 17, 2002, including "a discussion of interim response measures that the PRP's may conduct to reduce or eliminate current exposures to contamination prior to implementation of the RI." To date, USEPA has provided only very generalized information about alleged contamination and exposures, and has not provided any information whatsoever regarding the exact location or number of wells allegedly contaminated or the pertinent technical aspects such as screen depth. Without such information, it is difficult to see how Tricon or any other member of the Group can, in good faith and consistent with the National Contingency Plan, propose interim response measures to eliminate "current exposures" to "contamination," given that the "current exposures" to "contamination" are unknown.

During the November 19<sup>th</sup> meeting among the Group and USEPA/IEPA, USEPA/IEPA stated that the data sought by the Group would be freely available to them in the event of litigation, but not now. Although Tricon is mindful of

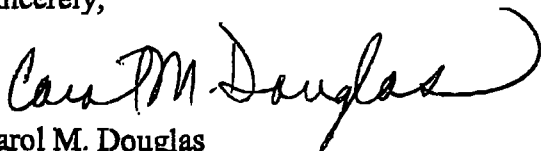
**UNGARETTI  
& HARRIS**

Thomas J. Krueger  
Associate Regional Counsel  
United States Environmental Protection Agency  
December 4, 2002  
Page 2

USEPA/IEPA's legal, political and logistical concerns regarding privacy rights and data-sharing among regulatory agencies, the rationale for withholding the data at this time is, at best, counterproductive and, at worst, arbitrary and capricious. Most importantly, the absence of the data undermines the ability of Tricon and the Group to present a good-faith, collective response to the Special Notice Letter.

In light of the above, Tricon formally requests that USEPA/IEPA provide the data discussed above at the earliest opportunity so as to meet the December 17, 2002 deadline for presentation of a good faith offer in response to the Special Notice Letter.

Sincerely,



Carol M. Douglas  
Ungaretti & Harris

cc: John J. Winkler, Chief Financial Officer  
Tricon Industries, Inc.